

**ASSEMBLY BILL**

**No. 2558**

**Introduced by Assembly Member Benoit**

February 23, 2006

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An act to amend Sections 13350, 13352, and 14601.2 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 2558, as introduced, Benoit. Vehicles: license suspension and revocation: punishment.

(1) Existing law prohibits, except for specified circumstances, a person from driving a motor vehicle at any time when the person's driving privilege has is suspended or revoked for driving under the influence and the person has knowledge of the revocation or suspension. Existing law prescribes penalties for a violation of this prohibition including the assessment of specified fines and imprisonment. Existing law prescribes punishment for a second and subsequent violation that occurs within 7 years of a prior conviction.

This bill would provide that a person who violates this provision 4 or more times within a 10-year period is punishable, among other things, by imprisonment in either state prison, or county jail for not less than 180 days, but not more than one year, and a fine of not more than \$500, but not more than \$2,000. The bill would require the revocation of the person's driving privilege, and the designation of that person as a habitual traffic offender for 3 years, subsequent to the conviction. To the extent this bill would increase the duties of local law enforcement agencies, this bill would impose a state-mandated local program.

This bill would provide that a person who drives a motor vehicle when the person had knowledge that his or her driving privilege has

been suspended or revoked and who, at the same time, commits a vehicular manslaughter or a driving under the influence offense that is charge as a felony, in addition to the punishment prescribed, is punishable by imprisonment in the state prison for an additional 5 years.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 13350 of the Vehicle Code is amended  
2 to read:

3 13350. (a) The department immediately shall revoke the  
4 privilege of ~~any~~ a person to drive a motor vehicle upon receipt of  
5 a duly certified abstract of the record of any court showing that  
6 the person has been convicted of any of the following crimes or  
7 offenses:

8 (1) Failure of the driver of a vehicle involved in an accident  
9 resulting in injury or death to any person to stop or otherwise  
10 comply with Section 20001.

11 (2) ~~Any~~ A felony in the commission of which a motor vehicle  
12 is used, except as provided in Section 13351, 13352, or 13357.

13 (3) Reckless driving causing bodily injury.

14 (4) *A violation of subdivision (a) of Section 14601.2 that is*  
15 *punishable pursuant to subdivision (h) of that section.*

16 (b) If a person is convicted of a violation of *subdivision (a) of*  
17 *Section 14601.2 punishable under subdivision (h) of that section,*  
18 *or a violation of* Section 23152 *punishable under* Section 23546,  
19 23550, or 23550.5, *or a violation of* Section 23153 *punishable*  
20 *under* Section 23550.5 or 23566, including a violation of  
21 paragraph (3) of subdivision (c) of Section 192 of the Penal Code  
22 as provided in Section 193.7 of that code, the court shall, at the  
23 time of surrender of the driver's license or temporary permit,  
24 require the defendant to sign an affidavit in a form provided by

1 the department acknowledging his or her understanding of the  
2 revocation required by paragraph (5), (6), ~~or~~ (7), *or* (8) of  
3 subdivision (a) of Section 13352, and an acknowledgment of his  
4 or her designation as a habitual traffic offender. A copy of this  
5 affidavit shall be transmitted, with the license or temporary  
6 permit, to the department within the prescribed 10 days.

7 (c) The department shall not reinstate the privilege revoked  
8 under subdivision (a) until the expiration of one year after the  
9 date of revocation and until the person whose privilege was  
10 revoked gives proof of financial responsibility as defined in  
11 Section 16430.

12 SEC. 2. Section 13352 of the Vehicle Code is amended to  
13 read:

14 13352. (a) The department shall immediately suspend or  
15 revoke the privilege of a person to operate a motor vehicle upon  
16 the receipt of an abstract of the record of ~~any~~ a court showing  
17 that the person has been convicted of a violation of *subdivision*  
18 *(a) of Section 14602.1 punishable under subdivision (h) of that*  
19 *section*, Section 23152 or 23153 or subdivision (a) of Section  
20 23109, or upon the receipt of a report of a judge of the juvenile  
21 court, a juvenile traffic hearing officer, or a referee of a juvenile  
22 court showing that the person has been found to have committed  
23 a violation of *subdivision (a) of Section 14602.1 punishable*  
24 *under subdivision (h) of that section*, Section 23152 or 23153 or  
25 subdivision (a) of Section 23109. If any offense specified in this  
26 section occurs in a vehicle defined in Section 15210, the  
27 suspension or revocation specified below shall apply to the  
28 noncommercial driving privilege. The commercial driving  
29 privilege shall be disqualified as specified in Sections 15300 to  
30 15302, inclusive. For the purposes of this section, suspension or  
31 revocation shall be as follows:

32 (1) Except as required under Section 13352.4, upon a  
33 conviction or finding of a violation of Section 23152 punishable  
34 under Section 23536, the privilege shall be suspended for a  
35 period of six months. The privilege may not be reinstated until  
36 the person gives proof of financial responsibility and gives proof  
37 satisfactory to the department of successful completion of a  
38 driving-under-the-influence program licensed pursuant to Section  
39 11836 of the Health and Safety Code described in subdivision (b)  
40 of Section 23538. If the court, as authorized under paragraph (3)

1 of subdivision (b) of Section 23646, elects to order a person to  
2 enroll, participate and complete either program described in  
3 paragraph (4) of subdivision (b) of Section 23542, the  
4 department shall require that program in lieu of the program  
5 described in subdivision (b) of Section 23538. For the purposes  
6 of this paragraph, enrollment, participation, and completion of an  
7 approved program shall be subsequent to the date of the current  
8 violation. Credit may not be given to any program activities  
9 completed prior to the date of the current violation.

10 (2) Upon a conviction or finding of a violation of Section  
11 23153 punishable under Section 23554, the privilege shall be  
12 suspended for a period of one year. The privilege may not be  
13 reinstated until the person gives proof of financial responsibility  
14 and gives proof satisfactory to the department of successful  
15 completion of a driving-under-the-influence program licensed  
16 pursuant to Section 11836 of the Health and Safety Code as  
17 described in subdivision (b) Section 23556. If the court, as  
18 authorized under paragraph (3) of subdivision (b) of Section  
19 23646, elects to order a person to enroll, participate, and  
20 complete either program described in paragraph (4) of  
21 subdivision (b) of Section 23542, the department shall require  
22 that program in lieu of the program described in Section 23556.  
23 For the purposes of this paragraph, enrollment, participation, and  
24 completion of an approved program shall be subsequent to the  
25 date of the current violation. Credit may not be given to any  
26 program activities completed prior to the date of the current  
27 violation.

28 (3) Except as provided in Section 13352.5, upon a conviction  
29 or finding of a violation of Section 23152 punishable under  
30 Section 23540, the privilege shall be suspended for two years.  
31 The privilege may not be reinstated until the person gives proof  
32 of financial responsibility and gives proof satisfactory to the  
33 department of successful completion of a  
34 driving-under-the-influence program licensed pursuant to Section  
35 11836 of the Health and Safety Code as described in subdivision  
36 (b) of Section 23542. For the purposes of this paragraph,  
37 enrollment, participation, and completion of an approved  
38 program shall be subsequent to the date of the current violation.  
39 Credit shall not be given to any program activities completed  
40 prior to the date of the current violation. The department shall

1 advise the person that after completion of 12 months of the  
2 suspension period, which may include credit for any suspension  
3 period served under subdivision (c) of Section 13353.3, the  
4 person may apply to the department for a restricted driver's  
5 license, subject to the following conditions:

6 (A) The person has satisfactorily provided, subsequent to the  
7 violation date of the current underlying conviction, either of the  
8 following:

9 (i) Proof of enrollment in an 18-month  
10 driving-under-the-influence program licensed pursuant to Section  
11 11836 of the Health and Safety Code.

12 (ii) Proof of enrollment in a 30-month  
13 driving-under-the-influence program licensed pursuant to Section  
14 11836 of the Health and Safety Code, if available in the county  
15 of the person's residence or employment.

16 (B) The person agrees, as a condition of the restriction, to  
17 continue satisfactory participation in the program described in  
18 subparagraph (A).

19 (C) The person submits the "Verification of Installation" form  
20 described in paragraph (2) of subdivision (e) of Section 13386.

21 (D) The person agrees to maintain the ignition interlock device  
22 as required under subdivision (g) of Section 23575.

23 (E) The person provides proof of financial responsibility, as  
24 defined in Section 16430.

25 (F) The person pays all administrative fees or reissue fees and  
26 any restriction fee required by the department.

27 (G) The restriction shall remain in effect for the period  
28 required in subdivision (f) of Section 23575.

29 (4) Except as provided in this paragraph, upon a conviction or  
30 finding of a violation of Section 23153 punishable under Section  
31 23560, the privilege shall be revoked for a period of three years.  
32 The privilege may not be reinstated until the person gives proof  
33 of financial responsibility, and the person gives proof satisfactory  
34 to the department of successful completion of a  
35 driving-under-the-influence program licensed pursuant to Section  
36 11836 of the Health and Safety Code, as described in subdivision  
37 (b) of Section 23562. For the purposes of this paragraph,  
38 enrollment, participation, and completion of an approved  
39 program shall be subsequent to the date of the current violation.  
40 Credit shall not be given to any program activities completed

1 prior to the date of the current violation. The department shall  
2 advise the person that after the completion of 12 months of the  
3 revocation period, which may include credit for any suspension  
4 period served under subdivision (c) of Section 13353.3, the  
5 person may apply to the department for a restricted driver's  
6 license, subject to the following conditions:

7 (A) The person has satisfactorily completed, subsequent to the  
8 violation date of the current underlying conviction, either of the  
9 following:

10 (i) The initial 12 months of an 18-month  
11 driving-under-the-influence program licensed pursuant to Section  
12 11836 of the Health and Safety Code.

13 (ii) The initial 12 months of a 30-month  
14 driving-under-the-influence program licensed pursuant to Section  
15 11836 of the Health and Safety Code, if available in the county  
16 of the person's residence or employment, and the person agrees,  
17 as a condition of the restriction, to continue satisfactory  
18 participation in that 30-month program.

19 (B) The person submits the "Verification of Installation" form  
20 described in paragraph (2) of subdivision (e) of Section 13386.

21 (C) The person agrees to maintain the ignition interlock device  
22 as required under subdivision (g) of Section 23575.

23 (D) The person provides proof of financial responsibility, as  
24 defined in Section 16430.

25 (E) The person pays all applicable reinstatement or reissue  
26 fees and any restriction fee required by the department.

27 (F) The restriction shall remain in effect for the period  
28 required in subdivision (f) of Section 23575.

29 (5) Except as provided in this paragraph, upon a conviction or  
30 finding of a violation of Section 23152 punishable under Section  
31 23546, the privilege shall be revoked for a period of three years.  
32 The privilege may not be reinstated until the person files proof of  
33 financial responsibility and gives proof satisfactory to the  
34 department of successful completion of one of the following  
35 programs: an 18-month driving-under-the-influence program  
36 licensed pursuant to Section 11836 of the Health and Safety  
37 Code, as described in subdivision (b) or (c) of Section 23548, or,  
38 if available in the county of the person's residence or  
39 employment, a 30-month driving-under-the-influence program  
40 licensed pursuant to Section 11836 of the Health and Safety

Code, or a program specified in Section 8001 of the Penal Code. For the purposes of this paragraph, enrollment, participation, and completion of an approved program shall be subsequent to the date of the current violation. Credit shall not be given to any program activities completed prior to the date of the current violation. The department shall advise the person that after completion of 12 months of the revocation period, which may include credit for any suspension period served under subdivision (c) of Section 13353.3, the person may apply to the department for a restricted driver's license, subject to the following conditions:

(A) The person has satisfactorily completed, subsequent to the violation date of the current underlying conviction, either of the following:

(i) The initial 12 months of an 18-month driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code.

(ii) The initial 12 months of a 30-month driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code, if available in the county of the person's residence or employment, and the person agrees, as a condition of the restriction, to continue satisfactory participation in the 30-month driving-under-the-influence program.

(B) The person submits the "Verification of Installation" form described in paragraph (2) of subdivision (e) of Section 13386.

(C) The person agrees to maintain the ignition interlock device as required under subdivision (g) of Section 23575.

(D) The person provides proof of financial responsibility, as defined in Section 16430.

(E) An individual convicted of a violation of Section 23152 punishable under Section 23546 may also, at any time after sentencing, petition the court for referral to an 18-month driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code, or, if available in the county of the person's residence or employment, a 30-month driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code. Unless good cause is shown, the court shall order the referral.

1 (F) The person pays all applicable reinstatement or reissue  
2 fees and any restriction fee required by the department.

3 (G) The restriction shall remain in effect for the period  
4 required in subdivision (f) of Section 23575.

5 (6) Except as provided in this paragraph, upon a conviction or  
6 finding of a violation of Section 23153 punishable under Section  
7 23550.5 or 23566, the privilege shall be revoked for a period of  
8 five years. The privilege may not be reinstated until the person  
9 gives proof of financial responsibility and proof satisfactory to  
10 the department of successful completion of one of the following  
11 programs: an 18-month driving-under-the-influence program  
12 licensed pursuant to Section 11836 of the Health and Safety  
13 Code, as described in subdivision (b) of Section 23568 or, if  
14 available in the county of the person's residence or employment,  
15 a 30-month driving-under-the-influence program licensed  
16 pursuant to Section 11836 of the Health and Safety Code, or a  
17 program specified in Section 8001 of the Penal Code. For the  
18 purposes of this paragraph, enrollment, participation, and  
19 completion of an approved program shall be subsequent to the  
20 date of the current violation. Credit shall not be given to any  
21 program activities completed prior to the date of the current  
22 violation. The department shall advise the person that after the  
23 completion of 12 months of the revocation period, which may  
24 include credit for any suspension period served under subdivision  
25 (c) of Section 13353.3, the person may apply to the department  
26 for a restricted driver's license, subject to the following  
27 conditions:

28 (A) The person has satisfactorily completed, subsequent to the  
29 violation date of the current underlying conviction, either of the  
30 following:

31 (i) The initial 12 months of a 30-month  
32 driving-under-the-influence program licensed pursuant to Section  
33 11836 of the Health and Safety Code, if available in the county  
34 of the person's residence or employment, and the person agrees,  
35 as a condition of the restriction, to continue satisfactory  
36 participation in the 30-month driving-under-the-influence  
37 program.

38 (ii) The initial 12 months of an 18-month  
39 driving-under-the-influence program licensed pursuant to Section



1 11836 of the Health and Safety Code, if a 30-month program is  
2 unavailable in the person's county of residence or employment.

3 (B) The person submits the "Verification of Installation" form  
4 described in paragraph (2) of subdivision (e) of Section 13386.

5 (C) The person agrees to maintain the ignition interlock device  
6 as required under subdivision (g) of Section 23575.

7 (D) The person provides proof of financial responsibility, as  
8 defined in Section 16430.

9 (E) Any individual convicted of a violation of Section 23153  
10 punishable under Section 23566 may also, at any time after  
11 sentencing, petition the court for referral to an 18-month  
12 driving-under-the-influence program or, if available in the county  
13 of the person's residence or employment, a 30-month  
14 driving-under-the-influence program licensed pursuant to Section  
15 11836 of the Health and Safety Code. Unless good cause is  
16 shown, the court shall order the referral.

17 (F) The person pays all applicable reinstatement or reissue  
18 fees and any restriction fee required by the department.

19 (G) The restriction shall remain in effect for the period  
20 required in subdivision (f) of Section 23575.

21 (7) Except as provided in this paragraph, upon a conviction or  
22 finding of a violation of Section 23152 punishable under Section  
23 23550 or 23550.5, or Section 23153 punishable under Section  
24 23550.5 the privilege shall be revoked for a period of four years.  
25 The privilege may not be reinstated until the person gives proof  
26 of financial responsibility and proof satisfactory to the  
27 department of successful completion of one of the following  
28 programs: an 18-month driving-under-the-influence program  
29 licensed pursuant to Section 11836 of the Health and Safety  
30 Code, or, if available in the county of the person's residence or  
31 employment, a 30-month driving-under-the-influence program  
32 licensed pursuant to Section 11836 of the Health and Safety  
33 Code, or a program specified in Section 8001 of the Penal Code.  
34 For the purposes of this paragraph, enrollment, participation, and  
35 completion of an approved program shall be subsequent to the  
36 date of the current violation. Credit shall not be given to any  
37 program activities completed prior to the date of the current  
38 violation. The department shall advise the person that after the  
39 completion of 12 months of the revocation period, which may  
40 include credit for any suspension period served under subdivision

(c) of Section 13353.3, the person may apply to the department for a restricted driver's license, subject to the following conditions:

(A) The person has satisfactorily completed, subsequent to the violation date of the current underlying conviction, either of the following:

(i) The initial 12 months of an 18-month driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code.

(ii) The initial 12 months of a 30-month driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code, if available in the county of the person's residence or employment, and the person agrees, as a condition of the restriction, to continue satisfactory participation in the 30-month driving-under-the-influence program.

(B) The person submits the "Verification of Installation" form described in paragraph (2) of subdivision (e) of Section 13386.

(C) The person agrees to maintain the ignition interlock device as required under subdivision (g) of Section 23575.

(D) The person provides proof of financial responsibility, as defined in Section 16430.

(E) An individual convicted of a violation of Section 23152 punishable under Section 23550 may also, at any time after sentencing, petition the court for referral to an 18-month driving-under-the-influence program or, if available in the county of the person's residence or employment, a 30-month driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code. Unless good cause is shown, the court shall order the referral.

(F) The person pays all applicable reinstatement or reissue fees and any restriction fee required by the department.

(G) The restriction shall remain in effect for the period required in subdivision (f) of Section 23575.

*(8) Except as provided in this paragraph, upon a conviction or finding of a violation of subdivision (a) Section 14601.2 punishable under subdivision (h) of that section, the privilege shall be revoked for a period of four years. The privilege may not be reinstated until the person gives proof of financial responsibility. The department shall advise the person that he or*

1 *she may apply to the department for a restricted driver's license,*  
2 *subject to the following conditions:*

3 (A) *The person provides proof of financial responsibility, as*  
4 *defined in Section 16430.*

5 (B) *The person pays all applicable reinstatement or reissue*  
6 *fees and any restriction fee required by the department.*

7 ~~(8)~~

8 (9) *Upon a conviction or finding of a violation of subdivision*  
9 *(a) of Section 23109 that is punishable under subdivision (e) of*  
10 *that section, the privilege shall be suspended for a period of 90*  
11 *days to six months, if ordered by the court. The privilege may not*  
12 *be reinstated until the person gives proof of financial*  
13 *responsibility, as defined in Section 16430.*

14 ~~(9)~~

15 (10) *Upon a conviction or finding of a violation of subdivision*  
16 *(a) of Section 23109 that is punishable under subdivision (f) of*  
17 *that section, the privilege shall be suspended for a period of six*  
18 *months, if ordered by the court. The privilege may not be*  
19 *reinstated until the person gives proof of financial responsibility,*  
20 *as defined in Section 16430.*

21 (b) *For the purpose of paragraphs (2) to ~~(9)~~ (10), inclusive, of*  
22 *subdivision (a), the finding of the juvenile court judge, the*  
23 *juvenile hearing officer, or the referee of a juvenile court of a*  
24 *commission of a violation of *subdivision (a) of Section 14601.2,**  
25 *Section 23152 or 23153, or subdivision (a) of Section 23109, as*  
26 *specified in subdivision (a) of this section, is a conviction.*

27 (c) *A judge of a juvenile court, juvenile hearing officer, or*  
28 *referee of a juvenile court shall immediately report the findings*  
29 *specified in subdivision (a) to the department.*

30 (d) *A conviction of an offense in any state, territory, or*  
31 *possession of the United States, the District of Columbia, the*  
32 *Commonwealth of Puerto Rico, or Canada that, if committed in*  
33 *this state, would be a violation of Section 23152, is a conviction*  
34 *of Section 23152 for the purposes of this section, and a*  
35 *conviction of an offense that, if committed in this state, would be*  
36 *a violation of Section 23153, is a conviction of Section 23153 for*  
37 *the purposes of this section. The department shall suspend or*  
38 *revoke the privilege to operate a motor vehicle pursuant to this*  
39 *section upon receiving notice of that conviction.*

(e) For the purposes of the restriction conditions specified in paragraphs (3) to (7), inclusive, of subdivision (a), the department shall terminate the restriction imposed pursuant to this section and shall suspend or revoke the person's driving privilege upon receipt of notification from the driving-under-the-influence program that the person has failed to comply with the program requirements. The person's driving privilege shall remain suspended or revoked for the remaining period of the original suspension or revocation imposed under this section and until all reinstatement requirements described in this section are met.

(f) For the purposes of this section, completion of a program is the following:

(1) Satisfactory completion of all program requirements approved pursuant to program licensure, as evidenced by a certificate of completion issued, under penalty of perjury, by the licensed program.

(2) Certification, under penalty of perjury, by the director of a program specified in Section 8001 of the Penal Code, that the person has completed a program specified in Section 8001 of the Penal Code.

(g) The holder of a commercial driver's license who was operating a commercial motor vehicle, as defined in Section 15210, at the time of a violation that resulted in a suspension or revocation of the person's noncommercial driving privilege under this section is not eligible for the restricted driver's license authorized under paragraphs (3) to—(7) (8), inclusive, of subdivision (a).

SEC. 3. Section 14601.2 of the Vehicle Code is amended to read:

14601.2. (a) ~~No~~ A person shall *not* drive a motor vehicle at ~~any~~ a time when that person's driving privilege is suspended or revoked for a conviction of a violation of Section 23152 or 23153 if the person so driving has knowledge of the suspension or revocation.

(b) Except in full compliance with the restriction, ~~no~~ a person shall *not* drive a motor vehicle at any time when that person's driving privilege is restricted, if the person so driving has knowledge of the restriction.

1 (c) Knowledge of suspension or revocation of the driving  
2 privilege shall be conclusively presumed if mailed notice has  
3 been given by the department to the person pursuant to Section  
4 13106. Knowledge of restriction of the driving privilege shall be  
5 presumed if notice has been given by the court to the person. The  
6 presumption established by this subdivision is a presumption  
7 affecting the burden of proof.

8 (d) ~~Any~~ A person convicted of a violation of this section shall  
9 be punished as follows:

10 (1) Upon a first conviction, by imprisonment in the county jail  
11 for not less than 10 days or more than six months and by a fine of  
12 not less than three hundred dollars (\$300) or more than one  
13 thousand dollars (\$1,000), unless the person has been designated  
14 an habitual traffic offender under subdivision (b) of Section  
15 23546, subdivision (b) of Section 23550, or subdivision (d) of  
16 Section 23550.5, in which case the person, in addition, shall be  
17 sentenced as provided in paragraph (3) of subdivision (e) of  
18 Section 14601.3.

19 (2) If the offense occurred within five years of a prior offense  
20 that resulted in a conviction of a violation of this section or  
21 Section 14601, 14601.1, or 14601.5, by imprisonment in the  
22 county jail for not less than 30 days or more than one year and by  
23 a fine of not less than five hundred dollars (\$500) or more than  
24 two thousand dollars (\$2,000), unless the person has been  
25 designated an habitual traffic offender under subdivision (b) of  
26 Section 23546, subdivision (b) of Section 23550, or subdivision  
27 (d) of Section 23550.5, in which case the person, in addition,  
28 shall be sentenced as provided in paragraph (3) of subdivision (e)  
29 of Section 14601.3.

30 (e) If a person is convicted of a first offense under this section  
31 and is granted probation, the court shall impose as a condition of  
32 probation that the person be confined in the county jail for at  
33 least 10 days.

34 (f) If the offense occurred within five years of a prior offense  
35 that resulted in a conviction of a violation of this section or  
36 Section 14601, 14601.1, or 14601.5 and is granted probation, the  
37 court shall impose as a condition of probation that the person be  
38 confined in the county jail for at least 30 days.

39 (g) ~~If any~~ Except as provided for in subdivision (h), when a  
40 person is convicted of a second or subsequent offense that results

1 in a conviction of this section within seven years, but over five  
2 years, of a prior offense that resulted in a conviction of a  
3 violation of this section or Section 14601, 14601.1, or 14601.5  
4 and is granted probation, the court shall impose as a condition of  
5 probation that the person be confined in the county jail for at  
6 least 10 days.

7 *(h) (1) If a person is convicted of a fourth or subsequent*  
8 *offense under subdivision (a) within 10 years of the commission*  
9 *of prior offenses that resulted in convictions of violation of*  
10 *subdivision (a) or Section 14601, 14601.1, or 14601.5, or any*  
11 *combination, that person shall be punished by imprisonment in*  
12 *the state prison, or in a county jail for not less than 180 days or*  
13 *more than one year, and by a fine of not less than five hundred*  
14 *dollars (\$500) or more than two thousand dollars (\$2,000).*

15 *(2) The department shall revoke a person described under*  
16 *paragraph (1) driving privilege pursuant to paragraph (8) of*  
17 *subdivision (a) of Section 13352. The court shall require that*  
18 *person to surrender his or her driver's license to the court in*  
19 *accordance with Section 13550.*

20 *(3) A person who is punished under this subdivision shall be*  
21 *designated as a habitual traffic offender for a period of three*  
22 *years, subsequent to the conviction. The person shall be advised*  
23 *of this designation under subdivision (b) of Section 13550.*

24 *(i) A person who violates subdivision (a), and at the same*  
25 *time, commits a violation of Section 191.5 of, paragraph (1) or*  
26 *(3) of subdivision (c) of Section 192 of, or subdivision (a) or (c)*  
27 *of Section 192.5 of, the Penal Code, or Section 23152 or 23153*  
28 *that is charged as a felony, upon that felony conviction and the*  
29 *conviction under subdivision (a), in addition and consecutive to*  
30 *the punishment prescribed for the offenses, shall be punished by*  
31 *an additional term of imprisonment of five years in the state*  
32 *prison. This additional term shall not be imposed unless the*  
33 *allegation is charged in the accusatory pleading and admitted by*  
34 *the defendant or found to be true by the trier of fact. The court*  
35 *shall not strike a finding that brings a person within the*  
36 *provisions of this subdivision or an allegation made pursuant to*  
37 *this subdivision.*

38 ~~(h)~~

39 *(g) Pursuant to Section 23575, the court shall require any*  
40 *person convicted of a violation of this section to install a certified*

1 ignition interlock device on any vehicle the person owns or  
2 operates.

3 ~~(i)–~~

4 (h )Nothing in this section prohibits a person who is  
5 participating in, or has completed, an alcohol or drug  
6 rehabilitation program from driving a motor vehicle that is  
7 owned or utilized by the person’s employer, during the course of  
8 employment on private property that is owned or utilized by the  
9 employer, except an offstreet parking facility as defined in  
10 subdivision (c) of Section 12500.

11 ~~(j)–~~

12 (l) This section also applies to the operation of an off-highway  
13 motor vehicle on those lands to which the Chappie-Z’berg  
14 Off-Highway Motor Vehicle Law of 1971 (Division 16.5  
15 (commencing with Section 38000)) applies as to off-highway  
16 motor vehicles, as described in Section 38001.

17 ~~(k)–~~

18 ~~This section shall become operative on September 20, 2005.~~

19 SEC. 4. No reimbursement is required by this act pursuant to  
20 Section 6 of Article XIII B of the California Constitution because  
21 the only costs that may be incurred by a local agency or school  
22 district will be incurred because this act creates a new crime or  
23 infraction, eliminates a crime or infraction, or changes the  
24 penalty for a crime or infraction, within the meaning of Section  
25 17556 of the Government Code, or changes the definition of a  
26 crime within the meaning of Section 6 of Article XIII B of the  
27 California Constitution.